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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/640,990	08/18/2000	Riley Rees	3572-0101P	6659

23535 7590 07/29/2003

MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
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EXAMINER

NAFF, DAVID M

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 07/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/040990

Applicant(s)

Rees

Examiner

Hapt

Group Art Unit

0057

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 5/13/03 + 5/12/03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-7, 10, 11, 13-20 + 22 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-7, 10, 11, 13-20 + 22 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

The amendment of 5/13/03 amended claims 1, 10 and 22, and canceled claim 12 and 21.

Claims examined on the merits are 1-7, 10, 11, 13-20 and 22 which are all claims in the application.

5 The documents listed in the Information Disclosure Statement of 5/12/03 have not been considered since the documents did not reach the application file. The documents should be resupplied.

The substitute specification of 11/13/02 has been entered.

10 The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

Claims 1-7, 10, 11, 13-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rees et al (6,197,330 B1) or (5,972,332) for reasons in the previous office action of 2/11/03 and for reasons herein.

15 The claims require treating a solid support with a hydroxide solution, introducing the support into an enclosure, and introducing cells into the enclosure to attach the cells to the support. The cells may be introduced by injecting cells into the enclosure or by immersing the enclosure into a culture of cells.

20 Rees et al disclose attaching cells to a solid support and putting the cell-containing solid support into an enclosure. The solid support, and enclosure can be the same as required by the present claims, and the support can be treated with a sodium hydroxide solution. See Example 1 of the '330 patent (col 11, lines 57-62) and of the '332 patent (col 11,
25 lines 52-57).

It would have been a matter of obvious choice depending on individual preference and convenience to modify Rees et al by first putting the support into the enclosure, and then introducing cells into the enclosure to attach the cells to the support.

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Response to Arguments

Applicant urges that the references do not teach treating the support with a hydroxide solution. However, as noted above, the references clearly disclose treating the support with a sodium hydroxide solution.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on

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Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, a message can be left on voice mail.

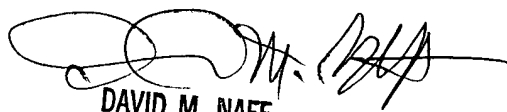
- 5 If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or (703) 872-9307 after final rejection.

- 10 Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

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DMN
7/28/03


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 12651